

OMB SUPPORTING STATEMENT
FOR PROPOSED RULE
10 CFR PART 110
EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND RADIOACTIVE MATERIALS:
SECURITY POLICIES
(3150-0036)

AMENDMENT TO 10 CFR PART 110

Description of the Information Collection

The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its regulations in 10 CFR Part 110 to require that licensees obtain specific export and import licenses for all high-risk radioactive material as specified in proposed new Appendix P to Part 110. The existing regulations, Sections 110.23 and 110.27, permit such export and imports from the United States (U.S.) under a general license. However, in view of the events of September 11, 2001, NRC and the U.S. Government are concerned that such export and import activities under general licenses could pose unnecessary risks to the public and the international community due to the potential use of high-risk material in Radioactive Dispersal Devices (RDDs) or Radioactive Exposure Devices (REDs).

Under the proposed rule, NRC would amend Part 110 by requiring specific export and import licenses for all high-risk radioactive material which exceeds the quantity limits in proposed new Appendix P to Part 110. Applications for such export and import licenses would be submitted to NRC using current procedures as set out in Part 110. The specific criteria that would be used by NRC for evaluating these applications are specified in the proposed amendment to Section 110.42. In addition, in accordance with NRC's recent domestic orders regarding high-risk radioactive material, all individual shipments of such material into and from the U.S. would require advance notification to NRC.

The U.S. Government has decided that to help prevent the use of radioactive material in a RDD (dirty bomb) or in a RED, greater control is needed in the export and import of high-risk radioactive material. The proposed amendments to Part 110 would require specific export and import licenses for all high-risk material exceeding the quantity limits in proposed new Appendix P of Part 110. An exporter or importer seeking such licenses must submit an application to NRC following the procedures set out in Section 110.32.

The proposed rule would require licensees to perform additional security measures for high-risk radioactive material covered under 10 CFR Part 110. Due to increased terrorist threats, as confirmed in formal U.S. Government and United Nations findings, this additional burden is judged by the NRC as essential to meet NRC's mandated requirement to protect the health and safety of the U.S. public as well as the broader world community that utilizes radioactive material subject to NRC's export/import licensing program. The proposed rule would require that export licensees provide documentation that the recipient of the material has the necessary authorization to receive and possess the material as well as requiring that, for certain high-risk radioactive material, importing countries must consent to the import of the material. Licensees must notify the NRC in writing at least 24 hours in advance of each shipment and to the extent practical, 10 days in advance.

A. JUSTIFICATION

1. Need for and Practical Utility of the Collection of Information

Section 110.32 requires that the following information be submitted in an application for a specific export or import license: name and address of applicant, supplier, intermediate and ultimate consignees; country of origin of equipment and material; shipment dates; and description of export and end use. For proposed exports of high-risk radioactive material, a new Section 110.32(g) would require the applicant to provide pertinent documentation that the recipient of the material has the necessary authorization to receive and possess the material.

Sections 110.42(e) would require that for proposed exports of certain high-risk radioactive material the importing country must consent to the import of the material. NRC will determine whether the receiving country has appropriate technical and administrative capability, resources and regulatory structure to manage the material in a secure manner.

Section 110.50(b)(4) would require that licensees notify the NRC in writing at least 24 hours in advance of each shipment, and to the extent practical, 10 days in advance of each shipment and provide the following information: (i) a copy of the authorization applicable to export shipments; (ii) estimated dates of when shipment is to begin and end; (iii) exporting or importing facility; (iv) recipient; (v) radioactive material and specific activity; (vi) aggregate activity level, and (vii) number of radioactive sources and their unique identifiers. Notifications may be electronic or by mail.

2. Agency Use of the Information

The information will be used in making NRC's decisions on whether to grant licenses for the export and import of high-risk radioactive material. Additionally, the information on shipments will be used to track high-risk radioactive material within the U.S. and to detect any diversions of the material.

3. Reduction of Burden Through Information Technology

There are no legal obstacles to reducing the burden associated with this information collection. Indeed, use of automated information technology is encouraged and licensees may use electronic information systems to submit their applications and provide notification of shipment, as appropriate.

4. Effort to Identify Duplication and Use Similar Information

NRC is the sole authority in the U.S. authorized to grant licenses for the export and import of high-risk radioactive material. The proposed Part 110 requirements to submit applications for specific export and import applications for high-risk radioactive material would not duplicate information currently collected by the NRC. There is no similar information available to the NRC.

5. Effort to Reduce Small Business Burden

Some of the licensees who use high-risk material are small businesses. However, since the security consequences of improper handling or use of high-risk radioactive material are the same for large and small entities, it is not possible to reduce the burden on small businesses by less frequent or less complete reporting, recordkeeping, or accounting and control procedures.

6. Consequences to Federal Program or Policy Activities if the Collection is Not Conducted or is Conducted Less Frequently

If the NRC does not require the information, it will have no way to evaluate whether exports or imports of high-risk radioactive material pose unacceptable risks to the public or to the international community. It is possible under existing regulations, for example, for U.S. companies to transfer high-risk radioactive material to foreign recipients that are ill-equipped to handle or dispose of the material in a secure manner. Current regulations are not adequate to assure that imports of high-risk radioactive material are destined for properly authorized recipients in the U.S. Accordingly, NRC believes it is necessary to amend its regulations to ensure, insofar as practicable, that the export and import of high-risk radioactive material use proper security measures.

7. Circumstances Which Justify Variation from OMB Guidelines

None.

8. Consultations Outside the NRC.

The opportunity for public comment has been published in the Federal Register. In preparing this proposed rule, NRC has utilized data obtained from the NMSS Database of Source Inventory of all NRC and Agreement State licensees authorized to possess radioactive material. This data was reviewed in conjunction with domestic and international shipments of nuclear material security matters following the events of September 11, 2001.

9. Payment or Gifts to Respondents

Not applicable.

10. Confidentiality of Information

None of the information required by §§110.31 and 110.32 is considered confidential or proprietary. If the exporter specifically requests NRC to keep information confidential, it will be treated as "Company Proprietary" in accordance with 10 CFR Section 2.790.

11. Justification for Sensitive Questions

There are no sensitive questions.

12. Estimated Burden and Burden Hour Cost

Under the proposed rule, NRC would amend Part 110, specifically in Section 110.23(a)(7), by requiring specific export and import licenses for high-risk radioactive material. Licensees will be required to follow the procedures for Section 110.31 and 110.32 in submitting applications for specific export or import license for such material. Based on data obtained from the NMSS Database of Source Inventory for NRC and Agreement States licensees during 2003, NRC estimates there may be 150 export applications annually during the first 3 years under the proposed amendment. For subsequent years it is likely that the number of applications will be significantly reduced as the NRC anticipates issuing broad multi-year licenses covering multiple shipments to multiple destinations. Approximately 800 notifications are expected to be received annually over the first 3 years. However, notifications are expected to remain unchanged, but may increase or decrease in accordance with commercial business trends. Based on past experience, the burden to the public for these information collections is estimated to average 2.4 per application, 15 minutes per notification, and 15 minutes per recipient certification to the licensee.

For imports, based on data from the NMSS Database of Source Inventory, NRC estimates receiving up to 25 import applications for the first year under the proposed amendment, with a significant reduction in volume for subsequent years. The burden hours for preparing and submitting import license applications is comparable to export applications.

The proposed rule is expected to increase the burden by 408 hours for NRC Form 7 and 209 hours for an average of 617 hours over the first 3 years after implementation. See annual burden tables below:

Part 110 Annual Burden (3150-0036)

Section	No. of Annual Respondents	Responses Per Respondent	No. of Annual Responses	Burden Per Response	Total Annual Burden Hrs	Cost @ \$157/Hr
110.42 Recipient's Certification to Licensee	35	1	35	15 minutes	9	\$ 1,413
110.50 Notifications	30*	26.7	800	15 minutes	200	\$ 31,400
Totals			835		209	\$32,813

NRC Form 7 Annual Burden (3150-0027)

Section	No. of Annual Respondents	Responses Per Respondent	No. of Annual Responses	Burden Per Response	Total Annual Burden Hrs	Cost @ \$157/Hr
110.32 Export Applications	30*	1.7	150	2.4 hours	360	\$56,520
110.32 Import Applications	30*	0.7	20	2.4 hours	48	\$ 7,536
Totals			170		408	\$64,056

*Total Universe of Respondents: 30 (Same licensees for each type of license)

13. Estimate of Other Additional Costs

None.

14. Estimated Annualized Cost to the Federal Government

Under the proposed rule, NRC would review and approve or deny (i.e., process) applications for additional export and import licenses for high-risk material. NRC estimates that the burden for NRC staff to review applications will range from 5 hours for applications reviewed at the staff level to over 50 hours for those applications requiring Commission and Executive Branch review. The time required by NRC to review and process each application is greater than the anticipated burden on the public due to more extensive internal processing requirements, including the requirement to notify the public of each application, analyzing and responding to any public comments, ensuring that each document related to the application is entered on NRC's electronic document system (ADAMS), and the additional time needed to refer certain applications to the Executive Branch and the Commission for their review. In addition, for each export application, NRC will be required to determine if the regulatory program in the foreign country meets the specified criteria and, for each import of Category 1 amounts of material, obtain foreign government consent for the export. While initially such consents will be required on a case-by-case basis, generic consents may be possible for future exports.

For the long term, and discounting the short term additional burden on NRC for processing initial applications under the proposed rule, the burden on NRC is estimated to approximate current processing times for nuclear material requiring specific export and import license under existing Part 110 requirements.

In total, NRC estimates that the annualized burden to NRC for processing export and import license applications for high-risk material will be 1,400 hours per year for an annual estimated cost of \$220,000 at \$157 per hour. However, the

burden on NRC is expected ultimately to be significantly reduced based on enhanced operational efficiencies achieved over time and the expected increased use of broader export and import licenses covering multiple shipments to multiple destinations. It is premature to estimate the amount of the expected reduction, although comments received from the public on the proposed rule may be helpful.

15. Reasons for Change in Burden

The proposed rule would require that certain licensees, now generally licensed, apply for and receive specific licenses. It would also add a new notification requirement for transportation of high-risk radioactive material. The amended requirements for this proposed rule are expected to increase the average annual burden by 408 hours for NRC Form 7 and 209 hours for Part 110.

16. Publication for Statistical Use

None.

17. Reason for Not Displaying the Expiration Date

The requirement is contained in a regulation. Amending the Code of Federal Regulations to display information that, in an annual publication, could become obsolete would be unduly burdensome and too difficult to keep current.

18. Exceptions to the Certification Statement

Not applicable.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods are not used in this collection of information.

U. S. NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: U. S. Nuclear Regulatory Commission (NRC)

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Revision
2. The title of the information collection: Proposed Rule - 10 CFR Part 110, Export and Import of High-Risk Radioactive Materials: Security Policies
3. The form number if applicable: NRC Form 7.
4. How often the collection is required: On occasion.
5. Who will be required or asked to report: Any licensee who wishes to export or import high-risk radioactive material subject to the requirements of a specific license.

6. An estimate of the number of annual responses: 1,005
7. The estimated number of annual respondents: 30
8. An estimate of the total number of hours needed annually to complete the requirement or request: 617 hours (2.4 hours per application, 15 minutes per notification and 15 minutes per recipient's certification to licensee).
9. An indication of whether Section 3507(d), Pub. L. 104-13 applies:
Applicable
10. Abstract: The Nuclear Regulatory Commission (NRC is proposing to amend its regulations pertaining to the export and import of nuclear equipment and radioactive materials. This proposed rule reflects recent changes to the nuclear and radioactive material security policies of the Commission and the Executive Branch, for the import and export of radioactive material. A specific license will be required for the import and export of high-risk radioactive material.

Submit, by (insert date 60 days after publication in the Federal Register), comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O-1 F21, Rockville, MD 20852. The proposed rule indicated in "The title of the information collection" is or has been published in the Federal Register within several days of the publication date of this Federal Register Notice. The OMB clearance package and rule are available at the NRC worldwide web site: <http://www.nrc.gov/public-involve/doc-comment/omb/index.html> for 60 days after the signature date of this notice and are also available at the rule forum site, <http://ruleforum.llnl.gov>.

Comments and questions should be directed to the OMB reviewer by (insert date 30 days after publication in the Federal Register):

OMB Desk Officer
Office of Information and Regulatory Affairs (3150-0036 and 3150-0027)
NEOB-10202
Office of Management and Budget
Washington DC 20503

Comments can also be submitted by telephone at (202) 395-3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301-415-7233.

Dated at Rockville, Maryland, this 15th day of September 2004.

For the Nuclear Regulatory Commission.

/RA/
Brenda J. Shelton, NRC Clearance Officer
Office of the Chief Information Officer